

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUAN ALEJO-DIAZ,

Defendant.

2:12-cr-00047-KJD -VCF-1

ORDER

(Motion for Dismissal of Charges #28, Motion to Strike Motion to Dismiss #29, and Motion To Dismiss Counsel and Appointment of Counsel #32)

Before the court is defendant Alejo-Diaz's Motion For Dismissal of Charges. (#28). The government filed a Motion to Strike defendant's Motion For Dismissal of Charges. (#29).

Also before the court is defendant Alejo-Diaz's Motion To Dismiss Counsel and For Appointment of Alternate Counsel. (#32).

A. Background

An indictment was filed against defendant Alejo-Diaz on February 14, 2012. (#1). The court signed a writ of habeas corpus ad prosequendum on the same day, as defendant Alejo-Diaz was in State custody. (#5). On February 24, 2012, defendant Alejo-Diaz made his initial appearance and arraignment and plea. (#7). Defendant Alejo-Diaz plead not guilty, the Public Defender's Office was appointed to represent him (#10), and he was remanded to custody (#12). *Id.* Attorney Jonathan Sussman filed a notice of appearance on February 29, 2012, stating that he will serve as counsel for defendant Alejo-Diaz. (#13). On April 2, 2012, the court issued an order substituting Jess R. Marchese, Esq. as defendant Alejo-Diaz's counsel for all future proceedings. (#17). On September 18, 2012, the court continued the trial until December 3, 2012. (#27).

B. Motion For Dismissal/Motion to Strike/Motion Dismiss Counsel

Defendant Alejo-Diaz filed the motion for dismissal of charges (#28) and motion to dismiss counsel (#32) on his own behalf. In the government's motion, it asks this court to strike the defendant's motion for dismissal of charges (#28), because defendant is represented by counsel and is not permitted to file motions on his own behalf. (#29).

Pursuant to Local Rule IA 10-6(a), "[a] party who has appeared by attorney cannot while so represented appear or act in the case. An attorney who has appeared for a party shall be recognized by the Court and all the parties as having control of the client's case." As Mr. Marchese is defendant's counsel of record (#17), and counsel has not filed a motion to withdraw as counsel, defendant may not file motions on his own behalf. *See* LR IA 10-6(a). The instant motion for dismissal of charges (#28) and motion to dismiss counsel (#32) are improper and stricken.

Accordingly and for good cause shown,

IT IS FURTHER ORDERED that the government's Motion to Strike the Motion to Dismiss (#29) is GRANTED.

IT IS FURTHER ORDERED that defendant's Motion For Dismissal (#28) and Motion To Dismiss Counsel and For Appointment of Alternate Counsel (#32) are STRICKEN.

DATED this 9th day of October, 2012.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE